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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

Single Bench : Hon'ble Shri S.R. Nayak, CJ

Writ Petition No.1520 of 2005

PETITIONER Gopal Singh, S/o Bishun singh, Caste-Kanwar, R/o Village – Pratapgarh, Police Station and Tahsil – Sitapur, District – Sarguja, (C.G.)

Versus

RESPONDENTS

1. Sarwan Sai S/o Mangal Sail, Caste-Gond, aged about 25 years, R/o Pratapgarh Police Station – Sarguja District – Sarguja,
2. S.D.M. Sitapur District Sarguja (C.G)
3. Collector Sarguja (C.G)

Present: Shri Rahul Birtharey, learned counsel for the petitioner.

Shri A.K Prasad, learned counsel for respondent No.1.

Shri Yashwant Singh, learned G.A. for the State of C.G.

ORDER

(Passed on 18th July, 2006)

Feeling aggrieved by the order dated 21/2/2005 passed by the Sub Divisional Magistrate, Sitapur, District Sarguja, the second respondent herein, altering the date of birth of the daughter of the petitioner, Kumari Mahima by name, from 4/12/2000 to 16/2/2002, the petitioner preferred an appeal to the Collector Sarguja, the third respondent herein. The third respondent by his order dated 14/3/2005 dismissed the appeal on the ground that the appeal is not maintainable and the same would lie to the Registrar under Section 15 of the Registration of Births & Deaths Act, 1969. Hence, this writ petition.

(2) Having heard for the learned counsel for the parties, I am of the considered opinion that this writ petition is entitled to be allowed and

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the impugned order passed by the second respondent could not be sustained in law. The specific case of the petitioner is that at the instance of the first respondent, who is his political rival, the second respondent without issuing notice and without giving any opportunity of being heard to the petitioner altered the date of birth of Kumari Mahima from 4/12/200 to 16/12/2002, which date is factually incorrect. The second respondent being a statutory authority under the Registration of Births & Deaths Act, 1969 before passing an adverse order against the petitioner, he ought to have issued notice to the petitioner, given him a fair opportunity of being heard.

(3) I have perused the impugned order of the second respondent. It does not disclose issuance of any notice to the petitioner and service of the same on the petitioner before passing the order. In that view of the matter, I allow the writ petition and set aside the impugned orders and remand the proceedings to the second respondent to dispose of the same in accordance with law and the provisions of the Act and the Rules framed thereunder and after issuing notice to the petitioner and giving him a fair opportunity of being heard in the matter. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice

Brijesh